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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/272,467	03/19/1999	HIDEO KOJIMA	WNX3.0-008	5682
530	7590	11/24/2003	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMLER & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			JONES, SCOTT E	
		ART UNIT	PAPER NUMBER	
		3713		
DATE MAILED: 11/24/2003				

28

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/272,467	KOJIMA, HIDEO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Scott E. Jones	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 August 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-42 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-42 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 August 1999 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>25</u> .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the reply filed on August 26, 2003 in which applicant submits an information disclosure statement and responds to the claim rejections.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 9, 19-20, 32, and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Toshihiro et al. (JP 07-155462).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 11, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

6. Claims 3-5, 12-13, 15, 35, and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of Rieder (U.S. 5,769,718).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of Rieder (U.S. 5,769,718) as applied to claims 3-5, 12-13, 15, 35, and 37-38 listed above in further view of Mukojima et al. (U.S. 5,768,393).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

8. Claims 6-7, 16-17, 34 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of Logg (U.S. 5,616,031).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

9. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of Logg (U.S. 5,616,031) as applied to claims 6-7, 16-17, 34 and 40 listed above and in further view of Mukojima et al. (U.S. 5,768,393).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

10. Claim 8, 18, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of "Corpse Killer" (Video Game by 3DO).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

11. Claims 10, 21-22, 30-31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of Mukojima et al. (U.S. 5,768,393).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

12. Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of Mukojima et al. (U.S. 5,768,393) as applied to claims 10, 21-22, 30-31, and 33 listed above and in further view of Rieder (U.S. 5,769,718).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

13. Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of Mukojima et al. (U.S. 5,768,393) as applied to claims 10, 21-22, 30-31, and 33 listed above and in further view of Logg (U.S. 5,616,031).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

14. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of Mukojima et al. (U.S. 5,768,393) as applied to claims 10, 21-22, 30-31, and 33 listed above and in further view of “Corpse Killer” (Video Game by 3DO).

The rejection as stated in Office Action, Paper No. 24 is retained and incorporated herein.

*Response to Arguments*

15. Applicant's arguments filed August 26, 2003 have been fully considered but they are not persuasive.

16. Applicant traverses the rejection to claims 1, 9, 19-20, 32, and 39 under 35 U.S.C. 102(b) as being anticipated by Toshihiro et al. (JP 07-155462). Applicant states Toshihiro et al. discloses “changing the display image either in response to a player operating a switch or control, Toshihiro et al., paragraph 16, or changing the display image in response to “current position”, “traveling direction” and “speed”, Toshihiro et al., paragraph 10.” However, Applicant alleges “current position, direction, and speed” are different criteria from “display position and motion” as used in the present invention. The examiner respectfully disagrees. Applicant cites the American Heritage College Dictionary for a definition of “motion” to be “a meaningful or expressive change in the position of a body or part of a body” or “the act or process of changing position or place.” The examiner asserts “motion” and “traveling direction” or “motion” and “speed” are not distinctively different terms as alleged. In particular, one

definition of traveling is “to move or undergo transmission from one place to another.” (Merriam Webster’s Collegiate Dictionary, Tenth Edition). One definition of speed is “a rate of motion.” (Merriam Webster’s Collegiate Dictionary, Tenth Edition). Therefore, “traveling direction” and/or “speed” anticipate the term “motion” as claimed.

17. Applicant’s arguments in the last three lines of page three of the response are spurious arguments.

18. Regarding independent claim 1, Applicant alleges Toshihiro et al. does not disclose “the display position and motion of a character are used to determine the type or mode of display.” The examiner respectfully disagrees. In particular, Toshihiro et al. discloses a scenario wherein once a car is determined to be in range of the player’s car, then radar picks up the car and provides a type or mode of display based on the cars’ detected position and motion as shown in figure 4 and described in paragraphs 22-29. Therefore, the examiner believes Toshihiro et al. anticipates the claim.

19. Regarding independent claims 9 and 32, Applicant relies on the same argument presented for claim 1. In response, please see item No. 18 above. Therefore, the examiner believes Toshihiro et al. anticipates the claims.

20. Applicant traverses the rejection to independent claims 21 under 35 U.S.C. 103(a) as being unpatentable over Toshihiro et al. (JP 07-155462) in view of Mukojima et al. (U.S. 5,768,393). Applicant relies on the same argument presented for claim 1. In response, please see item No. 18 above. Furthermore, Applicant states, “the three dimensional sound system disclosed in Mukojima et al. is arranged to control sound to be generated from a virtual sound source, i.e., each of the polygons forming an object, according to a position and direction of the

polygon when the object is viewed from a viewpoint.” Applicant then alleges, “Mukojima et al. sound system fails to disclose producing different sound effects depending on which of the subjective and objective image is displayed.” Applicant agrees that Mukojima et al. controls the sound based upon the position and direction of an object from a prescribed viewpoint, therefore, because Mukojima et al. discloses a different sound effect based upon position and direction of an object, then different sound effects would be provided for subjective and objective views in Mukojima et al. Therefore, the combination of Toshihiro et al. in view of Mukojima et al. renders the claim obvious.

21. For the reasons discussed hereinabove, the examiner maintains the rejections as stated in Office Action, Paper No. 24.

*Conclusion*

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9307.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SEJ

sej

  
Teresa Walberg  
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